

Exhibit 1- October 31, 2019 Emails



Zachary Newland <zach@brandonsample.com>

Re: US v. Ulbricht

1 message

Zachary Newland <zach@brandonsample.com>

Thu, Oct 31, 2019 at 12:52 PM

To: "Vainberg, Vladislav (USANYS)" <Vladislav.Vainberg@usdoj.gov>

Cc: "Neff, Michael (USANYS)" <Michael.Neff2@usdoj.gov>, "Choi, Eun Young (USANYS)" <Eun.Young.Choi@usdoj.gov>,

Brandon Sample <brandon@brandonsample.com>

Vlad,

Thank you for reaching out to me on the Ulbricht case. Since there are a number of issues raised in your email I will respond to them separately below.

1. Consent to Extension of Schedule

I have no problem with the requested extension of time and hope that you will be more successful in your extension request than I was last time.

2. Waiver of Privilege

As a starting point, I want to make clear that I agree as a matter of law that Ulbricht has impliedly waived his right to attorney-client privilege to the limited extent required for prior counsel to respond to the allegations in the 2255 motion.

However, the scope of the waiver must be narrowly construed so that it does not extend beyond the information which is required to be disclosed for counsel to respond to the 2255 motion.

In order to protect the vast majority of Ulbricht's attorney-client privilege which is still intact I would propose the following procedure:

A) An agreed protective order on terms to be worked out between the parties that sets out the limited scope of the waiver and the topics Ulbricht has waived privilege on.

B) Agreed deposition of prior counsel subject to the protective order's limitations.

The deposition procedure would allow you to obtain sworn testimony from prior counsel that could be used to respond to the 2255 motion or at any evidentiary hearing.

Please let me know your thoughts on this. We are open to discussion on alternative solutions.

Zachary L. Newland

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Zachary L. Newland is licensed to Practice in the State of Texas, the State of Colorado, and admitted to Practice before the United States Supreme Court as well as the U.S. Courts of Appeals for the 5th, 7th, 9th, 10th, 11th and D.C. Circuits, the U.S. District Courts for the District of Columbia, Northern District of Texas, the Northern District of Illinois, the Southern District of Illinois, the Central District of Illinois, the Eastern District of Michigan, and the Southern District of Indiana.

On Thu, Oct 31, 2019 at 12:02 PM Vainberg, Vladislav (USANYS) <Vladislav.Vainberg@usdoj.gov> wrote:

Hi Zach,

In light of the fact that Mr. Ulbricht's petition raises claims of ineffective assistance of counsel based on advice provided to Mr. Ulbricht, as is standard with respect to such claims, we intend to submit a letter to Judge Schoffield seeking an Order (1) permitting his prior defense counsel to discuss the allegations of ineffective assistance with the Government, and to submit affidavits, if necessary, regarding the allegations, (2) providing a form notice to be executed by Mr. Ulbricht regarding his waiver of attorney-client privilege, and (3) allowing an additional 60 days from the date of the order for the government to submit its response to the petition, with your reply to be keyed 30 days off our response. Our response is currently due December 10, and your reply on January 10.

Could you let us know if you consent to the request for an extension to the briefing schedule?

Thank you,

Vlad